

STATE OF WASHINGTON



OFFICE OF  
INSURANCE COMMISSIONER

In the Matter of	)	
	)	CONSENT AND ORDER
MASSACHUSETTS MUTUAL	)	TO LEVY FINE
LIFE INSURANCE COMPANY	)	
	)	
Authorized Insurer	)	NO. D02-11
	)	

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FINDINGS OF FACT:

1. Massachusetts Mutual Life Insurance Company ("Massachusetts Mutual") is an insurer authorized under RCW 48.05.030 to do business in Washington State.
2. The Office of the Insurance Commissioner ("OIC") performed a Market Conduct Examination of Massachusetts Mutual with respect to activities relating to marketing, agents, complaints, disciplinary procedures, policies, replacements and advertising for the period from January 1, 1992 through December 31, 1996.
3. On February 8, 2000, a Report ("Report") setting forth Findings, Conclusions, and Orders with respect to the above-referenced Market Conduct Examination was adopted by the Insurance Commissioner, which found the following facts to be true during the period covered.
4. Seven of the policy applications reviewed by the examiners contained alterations that were not initialed by the applicant or properly amended prior to issuance of the policy.
5. The examiners reviewed the license and appointment status of the agents who solicited the 11,098 policies issued in the State of Washington during the examination period. 58 of those agents were not licensed in this state at the time they solicited 79 of the Washington policies. Also, five of those agents were not appointed by Massachusetts Mutual at the time they solicited 14 of the Washington policies.
6. Of 42 policy files of new policies where the existing policy was surrendered, the examiners reviewed all 42 files. 17 of those files involved internal replacements but did not contain the "Important Notice Regarding Replacement of Insurance."

7. Of 16 files regarding policies where the non-forfeiture option was exercised on the existing policy, the examiners reviewed all 16. Two of those files involved internal replacements but did not contain the “Important Notice Regarding Replacement of Insurance.”
8. Of 25 policy files with policy loans on the existing policies, the examiners reviewed all 25 files. Two of those files involved internal replacements, but did not contain the “Important Notice Regarding Replacement of Insurance,” while another lacked documentation of the producer’s appointment.
9. Of 25 policy files where dividends from an existing policy were used to pay the premium on the new policy, the examiners reviewed all 25 files. One of those files involved an internal replacement, but did not contain the “Important Notice Regarding Replacement of Insurance.”
10. From the 11,098 policies issued in the State of Washington during the examination period, the examiners selected a sample of 56 policy files for review. Of those 56, one file involved an internal replacement but did not contain the “Important Notice Regarding Replacement of Insurance,” while another file lacked documentation of the producer’s appointment.

## CONCLUSIONS OF LAW

1. Massachusetts Mutual violated RCW 48.18.070 a minimum of seven times by accepting seven policy applications which had been altered other than by the applicant and without the applicant’s written consent.
2. Massachusetts Mutual violated RCW 48.05.140(9) a minimum of 79 times by accepting applications for 79 policies issued in Washington State from 58 agents who were not licensed in this state.
3. Massachusetts Mutual violated RCW 48.17.160 a minimum of 14 times by accepting applications for 14 policies issued in Washington State from five agents who were not appointed with Massachusetts Mutual at the time the business was solicited.
4. Massachusetts Mutual violated WAC 284-23-455(2) a minimum of 17 times by failing to have the “Important Notice Regarding Replacement of Insurance” set forth in WAC 284-43-485 in 17 of the 42 files where the existing policy was surrendered.
5. Massachusetts Mutual violated WAC 284-23-455(2) a minimum of two times by failing to have the “Important Notice Regarding Replacement of Insurance” set forth in WAC 284-43-485 in two of the 16 files where the non-forfeiture option was exercised on the existing policies.

6. Massachusetts Mutual violated WAC 284-23-455(2) a minimum of two times by failing to have the “Important Notice Regarding Replacement of Insurance” set forth in WAC 284-43-485 in 2 of the 25 files with policy loans on the existing policies.
7. Massachusetts Mutual violated WAC 284-23-455(2) by failing to have the “Important Notice Regarding Replacement of Insurance” set forth in WAC 284-43-485 in one of the 25 files dividends from an existing policy were used to pay the premium on a new policy.
8. Massachusetts Mutual violated WAC 284-23-455(2) a minimum of two times by failing to have the “Important Notice Regarding Replacement of Insurance” set forth in WAC 284-43-485 in 2 of the 56 files reviewed.

### CONSENT TO ORDER

Massachusetts Mutual wishes to resolve this matter without further administrative or judicial proceedings. Massachusetts Mutual hereby consents to the entry of this Order and admits to the foregoing Findings of Fact and Conclusions of Law. Massachusetts Mutual acknowledges its duty to comply fully with the applicable laws of the State of Washington. The Commissioner has offered a settlement in lieu of suspending or revoking Massachusetts Mutual’s certificate of authority.

By agreement of the parties, the OIC will impose a fine of \$115,000 on Massachusetts Mutual, with \$57,500 suspended on condition that:

1. Massachusetts Mutual pay \$57,500 of the fine within 30 days of entry of this Order, and
2. Massachusetts Mutual commit no further violations of the statutes and regulations that are the subject of this Consent Order for a period of twenty four months from the date on which this Order is entered. The OIC will not impose the balance of the fine nor proceed against Massachusetts Mutual’s certificate should it commit isolated, de minimis, violations of the statutes and regulations that are the subject of this Consent Order during the suspense period, as determined by the OIC. Massachusetts Mutual commits to rectifying such violations promptly once they are discovered.
3. Massachusetts Mutual implement and comply with all the provisions of the Compliance Plan attached hereto as Exhibits I and II.

This fine must be paid in full within thirty days of the date of entry of this order. Pursuant to RCW 48.04.185, failure to pay the non-suspended portion of the fine or to fulfill the stated conditions within the allotted time shall constitute grounds for recovery of the full fine, including the suspended portion, and for revocation of Massachusetts Mutual’s certificate of authority in a

civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

EXECUTED and AGREED this 6<sup>th</sup> day of February, 2001.

MASSACHUSETTS MUTUAL LIFE INSURANCE  
COMPANY

Title: \_\_\_\_\_

Signed: \_\_\_\_\_

#### ORDER

Pursuant to RCW 48.05.185, the Insurance Commissioner hereby imposes a fine of One Hundred Fifteen Thousand Dollars, with Fifty Seven Thousand Five Hundred Dollars suspended, upon Massachusetts Mutual Life Insurance Company. Fifty Seven Thousand Five Hundred Dollars of the fine must be paid in full within thirty days of the date of entry of this order. Failure to pay this portion of the fine within the allotted time or to fulfill the stated conditions shall constitute grounds for recovery of the full fine, including the suspended portion, and for suspension or revocation of Massachusetts Mutual Life Insurance Company's certificate of authority in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

ENTERED AT OLYMPIA, WASHINGTON, this 13<sup>th</sup> day of February, 2002.

MIKE KREIDLER  
Insurance Commissioner

By: \_\_\_\_\_  
Carol Sureau  
Deputy Insurance Commissioner  
Office of the Insurance Commissioner